No.

Supreme Court, U.S.
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In The

Supreme Court of the United States

IRVIN HANNIS CATLETT, JR.,
Petitioner,

v.

STATE OF MARYLAND
Respondent.

Petition for Writ of Certiorari
To The Court of Appeals
Of Maryland

PETITION FOR WRIT OF CERTIORARI
APPENDIX

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BEST AVAILABLE COPY

QUESTIONS PRESENTED

1. Whether Worcester County, Maryland Circuit Court Judge Thomas Groton III erred by dismissing petitioners Motion to Dismiss for violations of the Interstate Detainer Act, Speedy Trial Rights, Fifth, Sixth, Eighth and Fourteenth Amendments and do these violations trigger immediate appeal under the Cohen Abney Standard relying on the final judgement rules Collateral Order Exception outweighs the State's right against review before judgment and or whether the removal of the Petitioner from the State of Maryland to Virginia prior to trying Petitioner on the underlying Maryland charges violated the Interstate Agreement of Detainer, the Sixth, Eighth and Fourteenth Amendments; and whether Judge Groton should have recused himself from that ruling as the majority of the asserted constitutional violations were directed at Judge Groton; and whether the Maryland Court of Special Appeals and the Maryland Court of Appeals erred by failing to reverse Judge Groton's order to dismiss Petitioner's Motion to Dismiss?

2. Does the Interstate Agreement on Detainers prevail when it conflicts with State Law?

PARTIES

Comes now the Petitioner, Irvin Hannis Catlett, Jr. Pro Se, and seeks review of the Judgments from the Court of Appeals of Maryland, Petition Docket No 284, September Term 2006 the Maryland Court of Special Appeals No. 2883 September Term 2004 and the Worcester County Maryland Circuit Court Case Number 24K-04-000819.

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AUTHORITIES

West's Maryland Digest 2d Judges
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OPINIONS BELOW

Copies of the Denial of the Petitioner's Motion for Reconsideration in the Court of Appeals of Maryland (APP.1), Maryland Court of Appeals denial of Petitioners, Petition for Writ of Certiorari (APP.3), The Maryland Court of Special Appeals Decision (APP.5); and, the Docket entries depicting Worcester County Circuit Court denying of Petitioners Motion to Dismiss below (APP.7), and the motion to dismiss; (APP.8), whose judgments are sought to be reviewed.

STATEMENT ON THE GROUNDS ENVOKING THE JURISDICTION OF THIS COURT

Judgment in this case was entered by the Maryland Court of Appeals on September 15th, 2006.

Petitioner's Motion for Reconsideration was denied on December 8th, 2006.

This Petition for Writ of Certiorari is filed within 90 days of that date. The Court's jurisdiction is invoked under Title 28 USC 1257.

STATEMENT OF THE CASE

On March 31st while being held on another matter, Worcester County, Maryland issued a detainer to Petitioner at the Montgomery County Detention Center charging one count of theft over Three Hundred Dollars ($300.00).

On May 16th, 2003, the Petitioner forwarded a request to the Warden of Montgomery County Correctional Facility for a disposition of all outstanding charges, pursuant to the interstate Agreement on Detainer.

On May 20th, 2003, Petitioner was extradited to Virginia to the Arlington County Detention Center at which time Petitioner requested a disposition of all charges from the Virginia Authorities.

On June 12th, 2003, Petitioner was transferred to Peumansend Creek Regional Jail in Bowling Green, Virginia and remained there until January 29th, 2004.

On January 29th, 2004, Petitioner was transferred to the DOC facility at Powhattan, Virginia, and on February 4th, 2004, Worcester County Maryland lodged a detainer against Petitioner for failing to appear for a February 19th, 2003 hearing at the Worcester County Circuit Court. Be it remembered that the FTA was erroneous.

On July 26th, 2004, Petitioner was released on Parole and as a condition, forced to agree to waive extradition to Virginia and agreed to One

(1) year of Parole because of the erroneous charges in Maryland on the Bench Warrant.

The aforementioned erroneous bench warrant created the detainer and the basis of the extradition.

The Virginia authorities did not address the March 31st, 2003 detainer. In fact, Petitioner made the Maryland authorities aware of the buried outstanding warrant issued in case number 24-K-0000819 and for Petitioner's honesty concerning the buried outstanding warrant Petitioner was rewarded with an exorbitant bail of Twenty Five Thousand Dollars ($25,000) on the charge of Theft over $300.00. A charge that usually commanded personal recognizance.

The warrant for extradition was based on broken terms of bail probation or parole in Maryland.

Petitioner was in custody, in another jurisdiction; when the erroneous bench warrant was issued that caused Virginia extradition warrant to be issued.

Be it remembered that Petitioner was never convicted of a crime in Maryland. Therefore, could not have been on parole or probation.

Before being extradited to Maryland on August 8th, 2004, Petitioner spent nine (9) days in solitary confinement in the triple bunked Culpeper County, Virginia Jail.

Upon arriving in Maryland, Petitioner was never afforded any type of hearing concerning that aforementioned bench warrant and spent Ten (10) days raising bail for that mistaken warrant.

As of this writing, that bond is still in place.

During Pro Se Petitioner's incarceration at the Worcester County Detention Center, he was denied access to his legal files and was unable to comply with Maryland Rule 4.213(g) 3 in an effort to request a Preliminary Hearing.

Within twenty-four hours of Petitioner's release, a request for Preliminary Hearting was filed on August 19th, 2004.

The request was denied by the Worcester County District Court.

On November 1st, 2004, Petitioner filed a Motion to Dismiss along with a Memorandum In Support of Violation of Petitioner's Speedy Trial and numerous other Constitutional Right in this case and case number 23-K-000090, the Honorable Thomas Groton presiding.

Most of the asserted Constitutional violations were directed at Judge Groton. Despite same, Judge Groton ruled on this motion.

On December 7th, 2004, Judge Groton denied Petitioner's Motion to Dismiss.

On January 5th, 2005, Petitioner appealed that dismissal to the Court of Special Appeals.

On January 12th, 2005, Petitioner ordered the transcript of the proceeding.

On April 27th, 2005, Petitioner filed his brief and record extract; on June 7th, 2006 the Court of Special Appeals dismissed Petitioner's appeal and on July 15th, issued its Mandate.

On August 2nd, 2006, Petitioner filed a petition for Writ of Certiorari to Maryland Court of

Appeals. That Petition was denied on September 15th, 2006.

On December 8th, 2006, the Maryland Court of Appeals denied Petition for Reconsideration.

The Petitioner now brings this matter to this court.

Petitioner seeks review of the Denial of the State Court Judgment denying Petitioners Motion to Dismiss and the subsequent denial of the Appeal to the Maryland Court of Special Appeals and Court of Appeals.

The Federal questions were timely raised in the Circuit Court and for same Petitioner respectfully requests that those Federal questions be reviewed.

ARGUMENT FOR ALLOWANCE OF WRIT
QUESTION ONE

The Standard of Review to dismiss the charges against the Petitioner for violations of his speedy trial lie in Barker v. Wingo 407 US 514.

Quoting Epps v. State 276 MD 96 at 104. "In 1972, the Supreme Court, in Barker v. Wingo, 407 US 514 pointed out that the right to a speedy trail is generically different from any of the other rights enshrined in the Constitution for the protection of the accused and that in addition to the general concern that all accused persons be treated according to decent and fair procedures there is a societal interest in providing a speedy trial which exists separate from and at the times in opposition to the interest of the accused. It is postulated that the right to a speedy trial cannot be established by any inflexible rule, the denial of the right must be determined on an ad hoc basis balancing both the conduct or the prosecution and that of the Defendant. In enunciation such a balance test the Court identified four factors as criteria in determining through a functional analysis whether or not a particular Defendant has been denied this Sixth Amendment right."

The balancing test is based on four factors:

a) Length of delay.
b) Reason for delay.
c) Petitioner's assertion of his rights.
d) Prejudice to the petitioner.

For the purpose of a speedy trial consideration of any delay in bringing the Petitioner from the date on which he was arrested. There were two arrest dates; December 20th, 2002 in Case Number 23-K-04-000090 and March 31st, 2003 in Case Number 24-K-04-0000819.

The Petitioner remained in Maryland custody until May 20th, 2003, when Petitioner was prematurely extradited to Virginia, fifty days after his arrest and four days after his IAD filing.

On May 20th, 2004, the Petitioner was extradited to Arlington County, Virginia and was again served with a warrant and again asked for a speedy disposition of same.

On June 12th, 2003, Petitioner was transferred to Peumansend Creek Regional Jail in Bowling Green, Virginia.

Petitioner remained at Peumansend Creek for a period exceeding 228 days and was brought to trial on August 9th, 2004, more than one year and four months of his March 31st, 2003 arrest and 328 days on his being brought to trial on his December 20th, 2002 arrest.

Quoting Epps at 111 "a period of one year and fourteen days between the commencement of prosecution made the date which the Petitioner was tried was "not frivolous" and it appears to us that the duration of such interval was sufficiently inordinate to constitute a "triggering mechanism" to engage in the sensitive protracted to be presumptively prejudicial."

(b) Reason for Delay

In Wilson v. State 281 MD 640 Judge Orth stated "that a Defendant has no duty to bring himself to trial; the State has that duty"...in Barker v. Wingo Id. at 642 "says it follows therefore, that the State may not excuse delay in bringing an accused to trial merely because he is incarcerated for other offenses in this or other jurisdictions. In Maryland v. Russell Jamie Smith No 528, Sept Term 1987, the Maryland Court of Special Appeals, Gilbert, CJ held that a felony arrest warrant detainer lodged against a prisoner in a state that is party to the IAD is an "untried complaint" within the meaning of the IAD

State v. Hicks 285 MD 310 403A 2d 356 (1979) held "the mere fact that a defendant is incarcerated in another jurisdiction does not relieve the state of it's sixth amendment obligation to grant the accuse his constitutional right to a speedy trial" State v. Dean 142 MD App 155 at 162 states "it would seem therefore that an accused incarcerated in another State is not required to invoke the provisions of the Interstate.

Detainer Act as a condition precedent to prosecuting claim to a denial of his speedy trial rights guaranteed by the Sixth Amendment to the Constitution of the United States."

In a 1973 Maryland Court of Appeals Decision Case Number 453 Sept Term 1973, decided February 19th, 1974 a convicted murdered Ronal Douglas Barnes was convicted of murder but due to the Speedy Trial Violation, his judgment was reversed and his case was remanded for Dismissal of Indictment with Prejudice.

ON May 20th, 2003, Petitioner was extradited to Virginia prior to exhaustion of State and Federal remedies and prior to trying Petitioner on the instant charges.

The March 31st, 2003 detainer was an abuse of power by the State Police and State's Attorney and was a "piling on" to gain advantage in both cases investigated by the same State Police Team.

Again the passing of time is very prejudicial to the case and the arts of commission and/or omission of the State's Attorney violated Petitioner's right to a speedy trial.

(c) Petitioners Assertion of Right

Pursuant to Maryland Rule 4-271 and Trial and Sentencing Title 6-103 as held in Wheeler v. State, 165 MD App 210, 885 A 2d 351 2005 and State v. Price 385 MD 261, 868 A 2d 252 (2005) Denying Defendants Trial past the 180 day time limit the Court of Appeals Rule for dismissal of all charges.

The Petitioner, unaware of the events of his Trial in Absence in February and April in Case No. 23-K-03-000090, but certainly aware of his outstanding Court proceeding, when served with a detainer on another matter on March 31st, 2003, ask the authorities at the Montgomery County Jail for a quick deposition of all matters.

The Petitioner developed his own IAD package and sent same to the Warden on May 16th, 2003. On May 20th, 2003, Petitioner was extradited to Virginia.

ON the same day Petitioner asked Arlington County Jail Officials for a speedy disposition of the Maryland charges upon arriving in Virginia.

Twenty days later Petitioner was transferred to Peumansent Creek Regional Jail in Bowling Green, Virginia. At no time was the Petitioner served with any notices or detainers and seven months later, after being sent to Powhatan Reception Center, the Maryland State's Attorney filed a detainer for the same faulty Failure to Appear warrant.

Therefore, as to assertion of right, the foregoing speaks for itself.

(d) Prejudice to the Petitioner

Epp's quoting Moore v. Arizona, Supra "an affirmation demonstration of prejudice is not necessary to prove a denial of the Constitutional right to a "speedy trial" 415 US at 26, there stating in a per curium opinion:

Moreover, prejudice to a defendant caused by delay in bringing him to trial is not confined to the possible prejudice to his defense in those proceedings. Inordinate delay, "wholly aside from possible prejudice to a defense on the merits, may seriously interfere with the defendant's liberty, whether he is free on bail or not, and may disrupt his employment, drain his financial resources, curtail his association, subject him to public obloquy, and create anxiety in him, his family and his friends." United States v. Marion, 404 U.S. 307, 320 (1971), [footnotes omitted].

These factors are more serious for some than for others, but they are inevitable present in every case to some extent, for every defendant will either be incarcerated pending trial or on bail subject to substantial restriction on his liberty.

Barker v. Wingo, supra at 537 (White, J. concurring)" 415 US S AT 26-27.

Although prejudice may be presumed from the inordinate length of the delay itself, Baker v. Wingo, supra, at 530, Strunk v. United supra, at 439, we think upon the facts enumerated by Mr. Justice White in his concurring opinion in Barker v. Wingo, supra, which cause "anxiety and concern", the Petitioner Epps sustained actual prejudice.

In State v. Dean 42 MD App 1551 at 165, "Prejudice...should be assessed in the light of the

interested of defendants which the speedy trail was designed to protect. [This Court] has identified three such interests: (i) to prevent oppressive pretrial incarceration; (ii) to minimum anxiety and concern of the accused; and (iii) to limit the possibility that the defense will be impaired" Barker v. Wingo, supra at 532.

The Petitioner spent at least nine days in Worcester County Detention Center raising the oppressive bail. During that time Pro Se Defendant was denied access to his legal documents and any legal material within the confines of the jail inhibiting his right to a Preliminary Hearing causing great anxiety and interrupted his integration back into society; and, impairing the preparation of his defense by loss of witnesses and evidence necessary to defend this action.

The Petitioners "Speedy Trial" Motion to Dismiss argued Fifth Amendment violations, Double Jeopardy, Failure to try Petitioner while in custody and extradited Petitioner after that failure, Eighth Amendment (wrongful and excessive bail) and erroneous detainer impacting Petitioners Virginia Incarceration and Parole.

On October 1st, 2004, Fairfax County Virginia Circuit Court Judge Keith dismissed a capital murder case against sniper John Allen Mohammad due to Virginia violating Muhammad's right to a speedy trial. Se Funk v. Commonwealth of Virginia, Court of Appeals of Virginia decided July 6th, 1993.

Seventeen months earlier the Petitioner was extradited to Virginia from Maryland in clear violation of his rights under the Interstate Agreement of Detainers.

The Fourteenth Amendment guarantees equal protection under the law.

That amendment provides for equal protection for all people.

This Court in criminal cases has twice departed from the General Prohibition Against Piecemeal Appeal Review; Abney v. United States, Supra; Stack v. Boyle 342, US 1, 72 S CT, 96 LFD 3 (1951). In each instance, the Court relied on the Final Judgment Rule's "Collateral Order" Exception articulated in Cohen v. Beneficial Industrial Loan Corporation 327 US 541, 545-547 69 S CT 1221 1225-1226, 93 LED 1528 (1949).

In Abney v. US Supra and Stack v. Boyce, The Supreme Court relied on the Final Judgment Rule's Collateral Order Exception articulated in Cohen v. Beneficial Industrial Loan Corporation 327 US 541, 545-547 69 S CT 1221 1225-1226, 93 LED 1528 (1949). The Petitioners "Speedy Trial" Motion to Dismiss argued Foundation Amendment violations, Fifth Amendment violations (Double Jeopardy), Abney at ID at 2034 states that "A Denial of a Motion to Dismiss on Double Jeopardy grounds lacks the finality traditionally considered indispensable to Petitioner's review, such an order falls within the small class of cases that "Cohen" has placed

beyond the confines of the Final Judgment Rule, and such an order thus constitutes a "final Decision" which is immediately appeal able since it constitutes a complete formal and in the trial court final rejection of an accused Double Jeopardy claim, the very nature of which is such that it is collateral to and separable from the principle issue of guilt and since the rights conferred by the Double Jeopardy clause would be significantly undermined if Petitioners review of such claims were postponed until after conviction and sentence, 28 USCA 1291 USCA Constitutional Amendment 5.

In Abney v. US Supra and Stack v. Boyce, The Supreme Court relied on the Final Judgment Rule's Collateral Order Exception articulated in Cohen v. Beneficial Industrial Loan Corp 327 US 541, 545-547 69 S CT 1221 1225-1226, 93 LED 1528 (1949). The Petitioners "Speedy Trial" Motion to Dismiss argued Foundation Amendment violations, Fifth Amendment Violations, (Double Jeopardy), Abney at ID at 2043 states that "A Denial of a Motion to Dismiss on Double Jeopardy grounds lacks the finality traditionally considered indispensable to Petitioner's review, such an order falls within the small class of cases that "Cohen" has placed beyond the confines of the Final Judgment Rule, and such an order thus constitutes a "Final Decision" which is immediately appeal able, since it constitutes a complete formal and in the trial court final rejection of an accused Double

Jeopardy claim, the very nature of which is such that it collateral to and separable from the principal issue of guilt and since the rights conferred by the Double Jeopardy clause would be significantly undermined if Petitioners review of such claims were postponed until after conviction and sentence, 28 USCA 1291 USCA Constitutional Amendment 5.

Additionally, failure to try Petitioner while in custody, instead of extraditing Petitioner, was another Fifth Amendment violation.

Failure to try Petitioner while in custody and extraditing Petitioner after that failure, caused Eighth Amendment violations (wrongful and excessive bail) the erroneous detainer impacted Petitioners Virginia Incarceration and Parole.

When Maryland extradited Petitioner to Virginia, Virginia law became overriding and triggered the protection afforded by the Fourteenth Amendment.

If a convicted murder's charges are dismissed and he is discharged from prosecution, the equal protection of the Fourteenth Amendment demands that the Petitioner, then incarcerated in Virginia should be afforded the same finding.

With the majority of Petitioners Motion for Dismissal directed at Judge Groton, the Judge should have recused himself instead of ruling against the motion.

The foundation for Petitioners Sixth and Eighth Amendment violations were based on the action

of Judge Groton. The Petitioner himself pointed to the unconstitutional actions of the Circuit Clerks Office but Judge Groton further exacerbated the situation by issuing an Erroneous Bench Warranty and Bond that was never corrected despite this being the second time Judge Groton became aware or should have become aware of the Constitutional Morass.

At the very least, Judge Groton should have recused himself from the December 7th Motion to Dismiss, withdrawn the Bench Warranty and reduced the bail to its original personal recognizance status.

Due to the mistake by the Worcester Clerk of the Circuit Court, who failed to notify the Incarcerated Petitioner of the February 19th, 2003 Notice of Trial in the Companion Case Nu 23-K-04-000090 having brought the Petitioner via Writ from Montgomery County for a preliminary appearance in the Worcester County District on January 17th, 2003. Judge Groton issued a bench warranty on February 19th, 2003 for Failure to Appear and raised Petitioner's bail to $35,000.00 from personal recognizance.

When confronted with the mistake, the Judge failed to correct himself and caused a multitude of Sixth and Eighth Amendments violations to the Petitioner.

The Sixth Amendment demands a fair and speedy trial by an impartial jury certainly the Petitioner should have been afforded the same impartiality by the Judge.

The Fourteenth Amendment guarantees due process and equal protection under the law but where is the due process when Judge Groton tailed to correct his glaring mistakes?

Based on the foregoing, the Petitioner could not have prevailed with his Motion to Dismiss, due to the bias Judge, dismissal would have demanded censure of the Judge, and in effect became a whitewashing of same.

Failure of Judge Groton to revisit his Erroneous Bench Warrant and the detainer lodged by Worcester County for that Failure to Appear caused numerous cruel and unusual punishments in violation of the eighth Amendment elaborated in Petitioner's Speedy Trial Motion. That February 2004, detainer affected Petitioner security level with the Virginia Department of Corrections that effectively lengthed his sentence, caused his mandatory parole to be extended by a period of six months and resulted in nine days of isolation confinement at the Culpeper County Virginia Jail despite Petitioner's immediately waiving extradition.

Additionally, Petitioner was incarcerated twenty days in Worcester County Detention Center before Petitioner's bail could be posted. That cost the Petitioner Thirty Five Hundred Dollars ($3,500.00).

West's Maryland Digest 2d, Judges 41, 45-47, state that "No Maryland judge may sit in any case wherein he or she is interested or where either of the parties may be connected with the judge, by

affinity or consanguinity, within such degrees as may be prescribed by law, or where the judge shall have been of counsel in the case. Md Const Art IV 7. The word "interested" refers to a preliminary interest in litigation or its outcome. Thus Canons have been adopted respecting a judge's impartiality. A judge should not participate in a proceeding in which his or her impartiality might reasonably be questioned. The following may be indicators of partiality; bias; prejudice; person knowledge of disputed evidentiary facts, prior legal representation or association in practice with a prior attorney in the matter in controversy; having been a material witness concerning the matter; a significant financial or other interest that could be substantially affected by the outcome of the proceeding; or the judge, judge's spouse, family member within the third degree, or a family member's spouse's being a party, or know by the judge to be an officer, director, or trustee of a party, or acting as a lawyer in the proceeding. Md Rule Canon 3(c), 16-813. The test to be applied in determining whether a judge should recuse himself or herself is an objective one which assumes that a reasonable person and understands all the relevant facts. Jefferson – El v State, 330 Md 99, 622 A 2d 737 (1993); Surratt v. Prince George's County, MD 320 Md 439, 713 A 2d 745 (1990). Based upon the record facts and law. Goldman, Skeen & Wadler, P.A. v. Cooper,

Beckman & Tuerk, L.L.P. 122 Md App 29 712 A 2d I (1998).

West's Maryland Digest 2d, Judges 48, "while a judge should not preside in any case unless he or she is disinterested and impartial" Jefferson- El v. State, 330 Md 99 622 A 2d 737 (1993) judges are granted broad discretion in deciding whether to disqualify themselves. That decision will not be disturbed on appeal except for an abuse of discretion. In re Colin R, 63 Md App 684, 493 A 2d 1983 (1985) unless the basis asserted is grounds for mandatory recusal, Surratt v. Prince George's County, MD 320 Md 439, 713 A 2d 745 (1990) under the applicable provisions. Sharp v. Howard County 327 Md 17, 607 A 2d 545 (1992) appeal after remand 98 Md App 57, 632 A 2d 248 (1993); in Re Turney, 311 Md 246 533 A 2d 916 (1987)."

"There is strong presumption that judges are impartial participants in the legal process. Jefferson- El v. State, 330 Md 99 622 A 2d 737 (1993). To rebut the presumption of impartiality, the burden is on the party requesting recusal to prove that the trial judge has a personal bias or prejudice concerning the party or personal knowledge of disputed evidentiary facts concerning the proceedings. That burden is met by the argument within.

CONCLUSION

The Judge's denial of Petitioners Motion to Dismiss was clearly erroneous, although the thrust of the Motion was slating to the "Speedy Trial" violations the underlying theme of the Motion was the Fifth, sixth and eighth Amendments and the guarantees afforded under the Fourteenth Amendment.

The Judge should have disqualified himself from this action, as the nexus of the Speedy Trial violation stemmed from an erroneous bench warranty issued by the Judge in this case.

The Petitioner was in custody in Montgomery County, Maryland when the detainer for this companion case was lodged. The Petitioner had been arraigned in Worcester County in January of 2003 for Case Number 23-K-04-000090 from which the erroneous bench warrant arose and the foundation of the Constitutional may lays.

Despite the IAD demand, the Petitioner was extradited to Virginia.

The December 7th, 2004, Motion to Dismiss although titled a "Speedy Trial" Motion, was in effect arguing the Final Judgment Rules Collateral Order Exception articulated in Cohen and held in Abney and Stack making this matter ripe for appeal. The elimination of the preliminary hearing and faulty discovery was a final adjudication.

The Double Jeopardy created the Circuit Courts failure to dismiss the multiple and duplicitous

charges, and by failure of the trial court to try, the Petitioner on the companion case and this case, before Petitioner was extradited was a final adjudication.

The erroneous bench warrant and faulty detainer throughout the Petitioners Virginia incarceration increased Petitioners time served and length of his mandatory parole, and his re-entry into Maryland caused numerous Eighth Amendment Violations, were final adjudication.

These violations were certainly collateral in nature, and are certainly immediately appeal able, and the Maryland Special Court of Appeals and he Maryland Court of Appeal erred by failing to reverse the court below.

For it Cruel and Unusual Punishment (8th Amendment) and abuse of process (6th Amendment) for Judge Groton to fail to correct the Circuit Clerks mistakes that caused His issuance of the Erroneous Bench Warranty and Bonds and then failing to correct the Aforementioned when given two chances to fix the matter.

And without recusal, Judge Groton ruled on the charges brought against him (judge Groton), by the Petitioner in that very Motion citing those Constitutional violations, in fact becoming the judge and Jury of His own actions in prejudice to the Petitioner.

Therefore, in the light most favorable to the State, Petitioners Motion to Dismiss is ripe for adjudication based on the Final Judgment Rule's

Collateral Exception and for same and for the aforementioned constitutional violations.

That for those reasons, the Petitioner respectfully requests that this court revisit this matter and grant Petition for Writ of Certiorari.

ARGUMENT FOR ALLOWANCE OF WRIT QUESTION TWO

The Petitioner was being held in Montgomery County, Maryland for extradition proceeding for which the Petitioner was already sentenced.

On December 20, 2002, the Petitioner, while in custody in Maryland, was arrested by the Maryland State Police on a separate matter.

The Petitioner via Writ was transported to Worcester County District Court to be arraigned on the aforementioned charges on January 17th, 2003. Less than 12 days later, the Clerk of the Circuit Court for Worcester County mailed the Notice of Trial to incarcerated Petitioners old address.

On February 19th, 2003, that same Circuit Court issued a bench warrant for the Petitioner in custody at Montgomery County.

During the February 19th, 2003 court date that same court raised Petitioners bail to Thirty-Five Thousand Dollars. The bail is still in effect at this writing.

On March 31st, 2003, Worcester County issued a detainer for a separate case changing one count of theft over three hundred dollars.

On May 20th, 2003, Petitioner forwarded a request to the Warden of the Montgomery County Correctional Facility for a disposition of all outstanding charges pursuant to the interstate agreement on detainers Art 1 et and Maryland Correctional Services Article 8-502(b) mandating a disposition of all charges within one hundred and twenty days.

The State of Maryland violated those laws and extradited Petitioner four days later.

The courts below have failed to reverse those actions.

Maryland rule 4-271 and 6-103, trials and sentencing the Maryland Controlling statues re the one hundred and eighty day rule fails to address the matter of detainers.

Judge Groton stated in his dismissal of Petitioners Motion to dismiss that Petitioner failed to send the IAD request to the proper court, referring to the Circuit Court.

At the time of forwarding the IAD to the Warden, Petitioner was unaware that the case had been forwarded to the Circuit Court as that court failed to notify Petitioner of that forwarding.

was the duty of the Circuit Court to notify Petitioner of that transfer since that same court issued a writ to bring Petitioner from Montgomery County. The Clerk certainly had his new address on file.

The Maryland Court of Special Appeals held in Maryland v. Smith 528, Sept Term 1987, that a detainer is and "untried complaint" and the IAD requirement was that the prisoner must be brought to trial within 180 days of his request for disposition.

Lee v. State 61 MD APP 169 held that a detainer filed against a defendant before an indictment started the clock to tick in calculating the delay in bringing the case to trial.

On October 1st, 2004, Fairfax County Circuit Judge Keith dismissed a capital murder case against John Allen Muhammad due to Muhammad's right to speedy trial based on Funk v. Commonwealth, decided by the Virginia Court of Appeals on July 6th, 1993.

CONCLUSION

The Fourteenth Amendment guarantees equal protection under the law.

The Sixth, Eighth and Fourteenth Amendments supersedes any State Law.

The numerous violations of the Amendments against this Petitioner give rise to the Court to enforce the Federal overrides that the aforementioned amendments demand.

REASON TO GRANT THIS WRIT AND HEAR THIS CASE

The Fourteenth Amendment to the US Constitution guarantees equal protection under the law.

The Petitioners Motion to Dismiss pursuant to the IAD was denied by the lower courts despite the facts at bar is a textbook case for dismissal.

The Petitioner was being held in Maryland for a Virginia extradition.

The Petitioner was arrested on December 20th, 2002, by the Maryland State Police while still in custody in another county.

Thirty-three days later Petitioner was arraigned on those charges.

He then was transported back to original holding county.

Sixty days later, the transporting county lodged a detainer against Petitioner in the holding county.

On May 16th, 2003, Petitioner filed for disposition of all charges.

The IAD was filed 143 days after being arrested.

A defendant being held Intra state by law should have been tried within 120 days.

To exasperate matters, the Petitioner was extradited to Virginia four days after the request for disposition of all charges was prosecuted.

Both trials were scheduled to take place twenty months after the disposition request. Clear violations of the law.

During that same time period a famous murderer John Allen Muhammed "The Beltway Sniper" had had Capital Murder charges dropped against him because Virginia failed to try him 120 days after a detainer was lodged in Fairfax County, Virginia.

WHERE IS THE JUSTICE?

Respectfully Submitted

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At the time of forwarding the IAD to the Warden, Petitioner was unaware that the case had been forwarded to the Circuit Court as that court failed to notify Petitioner of that forwarding.

It was the duty of the Circuit Court to notify Petitioner of that transfer since that same court issued a writ to bring Petitioner from Montgomery County. The Clerk certainly had his new address on file.

The Maryland Court of Special Appeals held in Maryland v. Smith 528, Sept Term 1987, that a detainer is and "untried complaint" and the IAD requirement was that the prisoner must be brought to trial within 180 days of his request for disposition.

Lee v. State 61 MD APP 169 held that a detainer filed against a defendant before an indictment started the clock to tick in calculating the delay in bringing the case to trial.

On October 1st, 2004, Fairfax County Circuit Judge Keith dismissed a capital murder case against John Allen Muhammad due to Muhammad's right to speedy trial based on Funk v. Commonwealth, decided by the Virginia Court of Appeals on July 6th, 1993.

CONCLUSION

The Fourteenth Amendment guarantees equal protection under the law.

The Sixth, Eighth and Fourteenth Amendments supersedes any State Law.

The numerous violations of the Amendments against this Petitioner give rise to the Court to enforce the Federal overrides that the aforementioned amendments demand.

No.

In The

Supreme Court of the United States

IRVIN HANNIS CATLETT, JR.,
Petitioner,

v.

STATE OF MARYLAND
Respondent.

Petition for Writ of Certiorari
To The Court of Appeals
Of Maryland

PETITION FOR WRIT OF CERTIORARI

Irvin Hannis Catlett, Jr.
12830 Travilah Road
Potomac, MD 20854
240-529-4989
Pro Se

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IRVIN HANNIS CATLETT

v.

STATE OF MARYLAND

* IN THE COURT OF APPEALS
* OF MARYLAND

*Petition Docket No. 284

* Sept Term 2005

*(No. 2883, Sept. Term Of Special Appeals)

ORDER

The Court having considered the Motion for reconsideration filed in the above titled case it is ORDERED, by the Court of Appeals of Maryland that the motion be, and it is hereby, denied.

/s/ Robert M. Bell
Chief Judge

Date: December 8th, 2006

IRVIN HANNIS CATLETT, JR. *Petitioner*	* IN THE COURT OF APPEALS
	* OF MARYLAND
v.	
	*September Term 2006
STATE OF MARYLAND *Respondent*	* Petition Docket No.
	*(No. 2883, Sept. Term 2004, Court of Special Appeals)

MOTION FOR RECONSIDERATION

Comes now the Petitioner, Irvin Hannis Catlett, Jr., in proper person, pursuant to Maryland Rule 8-605A, and based on this court's September 15th, 2006 denial of Petitioner's Petition for Writ of Certiorari filed August 2nd, 2006, filed this motion for reconsideration.

STATEMENT OF FACTS

On December 10th, 2002, Petitioner was arrested at the Montgomery County Detention Center via a Criminal Summons, for a companion Case that for which with this instant case became combined by Judge Groton at the Motions Hearing on December 7th, 2004 (the subject of this appeal)

and was reported in the same transcript with this instant case.

Petitioner was held at the Montgomery County Detention Center pursuant to a Virginia Extradition proceeding.

On January 2nd, 2003, Petitioner filed a Motion to Dismiss The Companion Case and on January 17th, 2003, Petitioner was brought via Writ from Montgomery County for a preliminary appearance in the Worcester County District Court.

On January 23rd, 2003, the case was forwarded to the Worcester County Circuit Court.

On January 29th, 2003, the Clerk of the Circuit Court mailed a Notice of Trial to the incarcerated Petitioner's old address.

On February 19th, 2003, the Circuit Court issued a bench warrant for the unnotified and in custody Petitioner for Failure to Appear.

Additionally the Court ordered Petitioner recognizance be revoked and set bond at Thirty Five Thousand Dollars ($35,000.00).

On March 31st, 2003, Worcester County issued a detainer to Petitioner at the Montgomery County Detention Center, pursuant to this instant case. At the time of service Defendant asks Server for disposition of that charge.

On April 15th, 2003, the matter was called again and the Court continued the bench warrant, in the Companion Case.

On May 16th, 2003, the Petitioner forwarded a request to the Warden of the Montgomery

County Correctional Facility for a disposition of all outstanding charges.

On May 20th, 2003, Petitioner was illegally extradited to Virginia prior to his exhausting State and Federal remedies, and disposing of those aforementioned charges.

After being transported to the Arlington County Virginia Detention Center on May 20th, 2003, Petitioner was again served with the detainer by the Arlington County Sheriff Department. Petitioner made Sheriff aware of the IAD.

On June 12th, 2003, Petitioner was transferred to Peumanent Creek Regional Jail in Bowling Green, Virginia, and remained there until January 29th, 2004, more than 300 days after the Detainer. During those seven months, the Warden of that institution failed to inform Petitioner of any existing Detainers.

On June 28th, 2004, the Petitioner became aware of the Aforementioned Erroneous Bench Warrant and filed a Motion for Appropriate Relief in the Worcester County Circuit Court asking Judge Groton to correct the Erroneous Bench Warrant and Bond, that Motion was denied again.

ARGUMENTS AND AUTHORITIES

Pages 10-19 of the transcript of Proceedings of the November 4th, 2004, Motions Hearing became the foundation for Petitioners Sixth and Eighth Amendment Violations.

The Petitioner himself pointed to the unconstitutional actions of the Circuit Clerks

Office but Judge Groton further exacerbated the situation by issuing an Erroneous Bench Warranty and Bond that was never corrected despite this being the second time Judge Groton became aware or should have become aware of the Constitutional Morass.

At the very least, Judge Groton should have recused himself from the December 7th Motion to Dismiss, withdrawn the Bench Warranty and reduced the bail to its original personal recognizance status.

Due to the mistake by the Worcester Clerk of the Circuit Court, who failed to notify the Incarcerated Petitioner of the February 19th, 2003 Notice of Trial in the Companion Case Nu 23-K-04-000090 having brought the Petitioner via Writ from Montgomery County for a preliminary appearance in the Worcester County District on January 17th, 2003. Judge Groton issued a bench warranty on February 19th, 2003 for Failure to Appear and raised Petitioner's bail to $35,000.00 from personal recognizance.

When confronted with the mistake, the Judge failed to correct himself and caused a multitude of Sixth and Eighth Amendments violations to the Petitioner.

The Sixth Amendment demands a fair and speedy trial by an impartial jury certainly the Petitioner should have been afforded the same impartiality by the Judge.

The Fourteenth Amendment guarantees due process and equal protection under the law but

where is the due process when Judge Groton tailed to correct his glaring mistakes?

Based on the foregoing, the Petitioner could not have prevailed with his Motion to Dismiss, due to the bias Judge, dismissal would have demanded censure of the Judge, and in effect became a whitewashing of same.

Failure of Judge Groton to revisit his Erroneous Bench Warrant and the detainer lodged by Worcester County for that Failure to Appear caused numerous cruel and unusual punishments in violation of the eighth Amendment elaborated in Petitioner's Speedy Trial Motion. That February 2004, detainer affected Petitioner security level with the Virginia Department of Corrections that effectively lengthed his sentence, caused his mandatory parole to be extended by a period of six months and resulted in nine days of isolation confinement at the Culpeper County Virginia Jail despite Petitioner's immediately waiving extradition.

Additionally, Petitioner was incarcerated twenty days in Worcester County Detention Center before Petitioner's bail could be posted. That cost the Petitioner Thirty Five Hundred Dollars ($3,500.00).

West's Maryland Digest 2d, Judges 41, 45-47, state that "No Maryland judge may sit in any case wherein he or she is interested or where either of the parties may be connected with the judge, by affinity or consanguinity, within such degrees as may be prescribed by law, or where the judge

shall have been of counsel in the case. Md Const Art IV 7. The word "interested" refers to a preliminary interest in litigation or its outcome. Thus Canons have been adopted respecting a judge's impartiality. A judge should not participate in a proceeding in which his or her impartiality might reasonably be questioned. The following may be indicators of partiality; bias; prejudice; person knowledge of disputed evidentiary facts, prior legal representation or association in practice with a prior attorney in the matter in controversy; having been a material witness concerning the matter; a significant financial or other interest that could be substantially affected by the outcome of the proceeding; or the judge, judge's spouse, family member within the third degree, or a family member's spouse's being a party, or know by the judge to be an officer, director, or trustee of a party, or acting as a lawyer in the proceeding. Md Rule Canon 3(c), 16-813. The test to be applied in determining whether a judge should recuse himself or herself is an objective one which assumes that a reasonable person and understands all the relevant facts. Jefferson – El v State, 330 Md 99, 622 A 2d 737 (1993); Surratt v. Prince George's County, MD 320 Md 439, 713 A 2d 745 (1990). Based upon the record facts and law. Goldman, Skeen & Wadler, P.A. v. Cooper, Beckman & Tuerk, L.L.P. 122 Md App 29 712 A 2d I (1998).

West's Maryland Digest 2d, Judges 48, "while a judge should not preside in any case unless he or she is disinterested and impartial" Jefferson- El v. State, 330 Md 99 622 A 2d 737 (1993) judges are granted broad discretion in deciding whether to disqualify themselves. That decision will not be disturbed on appeal except for an abuse of discretion. In re Colin R, 63 Md App 684, 493 A 2d 1983 (1985) unless the basis asserted is grounds for mandatory recusal, Surratt v. Prince George's County, MD 320 Md 439, 713 A 2d 745 (1990) under the applicable provisions. Sharp v. Howard County 327 Md 17, 607 A 2d 545 (1992) appeal after remand 98 Md App 57, 632 A 2d 248 (1993); in Re Turney, 311 Md 246 533 A 2d 916 (1987)."

"There is strong presumption that judges are impartial participants in the legal process. Jefferson- El v. State, 330 Md 99 622 A 2d 737 (1993). To rebut the presumption of impartiality, the burden is on the party requesting recusal to prove that the trail judge has a personal bias or prejudice concerning the party or personal knowledge of disputed evidentiary facts concerning the proceedings. That burden is met by the argument within.

CONCLUSION

For it Cruel and Unusual Punishment (8th Amendment) and abuse of process (6th Amendment) for Judge Groton to fail to correct the Circuit Clerks mistakes that caused His issuance of the Erroneous Bench Warranty and Bonds and then failing to correct the Aforementioned when given two chances to fix the matter.

And without recusal, Judge Groton ruled on the charges brought against him (judge Groton), by the Petitioner in that very Motion citing those Constitutional violations, in fact becoming the judge and Jury of His own actions in prejudice to the Petitioner.

Therefore Justice demands that this Court revist the matter and grant Petitioner's Motion for Reconsideration.

Respectfully Submitted,

Irvin Hannis Catlett, Jr.
12830 Travilah Road
Potomac, MD 20854
240-529-4989

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of October 2006, a copy of the foregoing was mailed first class to:

THE OFFICE OF ATTORNEY GENERAL
CRIMINAL APPEALS DIVISION
17TH FLOOR, 200 ST. PAUL PLACE
BALTIMORE, MD 21202

_____

Irvin Hannis Catlett, Jr.

IRVIN HANNIS CATLETT, JR.* IN THE
* COURT OF APPEALS
* OF MARYLAND

v.

* Petition Docket 284
No.56
* Sept. Term, 2005

STATE OF MARYLAND

* (No. 2491, Sept. Term, 2004, Court of Special Appeals)

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals filed in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ Robert M. Bell

Chief Judge

DATE: September 15th, 2006

IRVIN HANNIS CATLETT, JR. *Petitioner*	* IN THE COURT OF APPEALS
	* OF MARYLAND
v.	
	*September Term 2006
STATE OF MARYLAND *Respondent*	* Petition Docket No.
	*(No. 2883, Sept. Term 2004, Court of Special Appeals)

PETITION FOR WRIT OF CERTIORARI

The Petitioner was incarcerated at the Montgomery County Detention Center pursuant to an extradition proceeding from November 27th, 2002, until May 20th, 2003.

On March 31st, Petitioner was served a detainer at the Montgomery County Correction Center at the request of the Maryland State Police, Berlin, Maryland with the approval of the State's Attorney charging theft over $300.00 (Exhibit Two if Motion to Dismiss) [E30]. At time of service, Defendant asks server for disposition of that charge [E31].

On May 20th, 2003, Petitioner was illegally extradited to Virginia prior to exhausting State and Federal remedies.

After being transported to the Arlington County Virginia Detention Center on May 20th, 2003, Petitioner was again served with the detainer by the Arlington County Sheriff Department. Petitioner made Sheriff aware of the IAD.

On June 12th, 2003, Petitioner was transferred to Peumanent Creek Regional Jail in Bowling Green, Virginia, and remained there until January 29th, 2004, more than 300 days after the Detainer. During those seven months, the Warden of that institution failed to inform Petitioner of any existing Detainers.

On July 26th, 2004 Petitioner waived extradition and on August 3rd, 2004 was returned to Maryland, more than 486 days after March 31st Detainer. [Motion to Dismiss) [E36-37].

On August 6th, 2004, Petitioner was arraigned with the bail of $25,000 based primarily on the Trial Court's issuance of erroneous failure to appear warrant, Exhibit Five of the Motion to Dismiss [E35]. That failure to appear warrant was caused to notify Petitioner of the pending court date on February 19th, 2003. The then incarcerated Petitioner was not brought to trial but had his personal recognizance bond raised to Thirty-Five Thousand Dollars bond and that erroneous Bond is still in effect today. Hearing Transcript, page five [E54-55].

During Pro Se Defendant's incarceration at the Worcester County Detention Center, he was denied access to his legal files and was unable to

comply with Rule 4.213(g) 3 in an effort to request a Preliminary Hearing.

Within twenty-four hours of Petitioner's release, a request for Preliminary Hearing was filed on August 19th, 2004. (Exhibit Seven of Motion to Dismiss) [E38]. The request was denied by the District Court.

On November 23rd, 2004, Appellant filed the aforementioned Motions to Dismiss [E21]. And on December 7th, 2004, Judge Groton dismissed that Motion [E2] Docket Entry 68-69.

On January 5th, 2005, Appellant filed the Notice of Appeal to this court.

ON January 12th, 2005, Petitioner ordered the transcript of the proceeding.

On April 27th, 2005, Petition filed his brief and record extract.

On June 7th, 2006, the Court of Special Appeals dismissed Petitioners appeal and on July 18th, 2006, that court issued its mandate.

Pursuant to Maryland Rule 8-303 Petitioner, in Proper Person Petitions this court to issue a Writ of Certiorari to the Court Special Appeals to review that Courts decision.

REASONS FOR GRANTING THE WRIT

Question Presentation:

Did the Court of Special Appeals erred by dismissing Petitioners Appeal as to the Violation of Petitioner Sixth Amendment (Failure to Try Petitioner while in custody and extradited after

that failure) and Violations of Petitioners Eighth Amendment (Wrongful Detention and Excessive Bail and Erroneous Detainer impacting Petitioner's Virginia incarceration and Parole; and, did the failure of Judge Thomas C. Groton, III TO RECUSE HIMSELF from the Proceeding became the poisonous fruit that demands dismissal of all charges against the Petitioner.

STATEMENT OF FACTS

On December 10th, 2002, Petitioner was arrested at the Montgomery County Detention Center via a Criminal Summons, for a companion Case that for which with this instant case became combined by Judge Groton at the Motions Hearing on December 7th, 2004 (the subject of this appeal) and was reported in the same transcript with this instant case.

Petitioner was held at the Montgomery County Detention Center pursuant to a Virginia Extradition proceeding.

On January 2nd, 2003, Petitioner filed a Motion to Dismiss The Companion Case and on January 17th, 2003, Petitioner was brought via Writ from Montgomery County for a preliminary appearance in the Worcester County District Court.

On January 23rd, 2003, the case was forwarded to the Worcester County Circuit Court.

On January 29th, 2003, the Clerk of the Circuit Court mailed a Notice of Trial to the incarcerated Petitioner's old address.

On February 19th, 2003, the Circuit Court issued a bench warrant for the unnotified and in custody Petitioner for Failure to Appear.

Additionally the Court ordered Petitioner recognizance be revoked and set bond at Thirty Five Thousand Dollars ($35,000.00).

On March 31st, 2003, Worcester County issued a detainer to Petitioner at the Montgomery County Detention Center, pursuant to this instant case. At the time of service Defendant asks Server for disposition of that charge.

On April 15th, 2003, the matter was called again and the Court continued the bench warrant, in the Companion Case.

On May 16th, 2003, the Petitioner forwarded a request to the Warden of the Montgomery County Correctional Facility for a disposition of all outstanding charges.

On June 28th, 2004, the Petitioner became aware of the Aforementioned Erroneous Bench Warrant and filed a Motion for Appropriate Relief in the Worcester County Circuit Court asking Judge Groton to correct the Erroneous Bench Warrant and Bond, that Motion was denied again.

ARGUMENTS AND AUTHORITIES

Pages 10-19 of the transcript of Proceedings of the November 4th, 2004, Motions Hearing

became the foundation for Petitioners Sixth and Eighth Amendment Violations.

The Petitioner himself pointed to the unconstitutional actions of the Circuit Clerks Office but Judge Groton further exacerbated the situation by issuing an Erroneous Bench Warranty and Bond that was never corrected despite this being the second time Judge Groton became aware or should have become aware of the Constitutional Morass.

At the very least, Judge Groton should have recused himself from the December 7th Motion to Dismiss, withdrawn the Bench Warranty and reduced the bail to its original personal recognizance status.

Maryland Rule 16-813 Canon states that in performance of judicial duties, the following standards apply:

(a) Adjudicative responsibilities (1) A Judge should be faithful to the law maintain professional competence in it.

Judge Groton denied Petitioner's Motion for Appropriate Relief when the Motion and Facts regarding same spoke for itself.

Due to the mistake by the Worcester Clerk of the Circuit Court, Judge Groton issued a bench warrant for Failure to Appear and raised Petitioner's bail to $35,000.00 from personal recognizance.

When confronted with the mistake in the aforementioned Motion for Appropriate Relief, the Judge failed to correct Himself and caused a

multitude of Sixth and Eighth Amendments violations on Petitioner.

The Sixth Amendment demands a fair and speedy trial by an impartial jury certainly the Petitioner should have been afforded the same impartiality by the Judge.

The Fourteenth Amendment guarantees due process and equal protection under the law but where is the due process when Judge Groton failed to correct his glaring mistakes?

Based on the foregoing, the Petitioner could not have prevailed with his Motion to Dismiss, due to the bias Judge, dismissal would have demanded censure of the Judge, and in effect became a whitewashing of same.

Failure of Judge Groton to revisit his Erroneous Bench Warrant via Petitioner's July 26th, 2004, Motion for Appropriate Relief (See Stone v. State 344 MD 97) and the detainer lodged by Worcester County for that failure to appear cause numerous cruel and unusual punishments in violation of the Eighth Amendment elaborated in Petitioner's Speedy Trial Motion. That February 20-04, detainer affected Petitioners security level with the Virginia Department of Corrections that effectively lengthened his sentence and caused his mandatory parole to be extended by a period of six months and resulted in nine days of isolation at the Culpeper County Virginia Jail despite Petitioner's immediately waiving extradition. Additionally, Petitioner was incarcerated twenty days in Worcester County

Detention Center before Petitioner's bail could be posted. That cost the Petitioner Thirty Five Hundred Dollars (see Speedy Trial Motion and Memorandum in Support of).

CONCLUSION

For it Cruel and Unusual Punishment (8th Amendment) and abuse of process (6th Amendment) for Judge Groton to fail to correct the Circuit Clerks mistakes that caused His issuance of the Erroneous Bench Warranty and Bonds and then failing to correct the Aforementioned when given two chances to fix the matter.

And without recusal, Judge Groton ruled on the charges brought against him (judge Groton), by the Petitioner in that very Motion citing those Constitutional violations, in fact becoming the judge and Jury of His own actions in prejudice to the Petitioner. Therefore, Justice demands that this Court grant this Petition.

Respectfully Submitted,

Irvin Hannis Catlett, Jr.
12830 Travilah Road
Potomac, MD 20854
240-529-4989

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd Day of August 2006, a copy of the foregoing was mailed first class to:

THE OFFICE OF ATTORNEY GENERAL
CRIMINAL APPEALS DIVISION
17TH FLOOR, 200 ST. PAUL PLACE
BALTIMORE, MD 21202

Irvin Hannis Catlett, Jr.

DEPARTMENT OF CORRECTION AND REHABILITIATION

Douglas M. Duncan
County Executive

Arthur M. Wallenstein
Director

Date: 7/29/03
Re: Irvin H. Catlett
MCDOC #: 0208148

To Whom It May Concern:

In response to your inquiry of 7/29/03, please be advised that the above named individual was incarcerated at the Montgomery County Department of Corrections and Rehabilitation. The dates of incarceration for the time period requested are as follows:
From: 11/27/02002 To: 5/20/2003
If you need any further assistance regarding this matter, please feel free to contact the Records Section of the Montgomery County Department of Corrections and Rehabilitation.

Sincerely,

/S/ Carl C. Furr

Carl C. Furr
Records Manager
Montgomery County
Department of
Correction and Rehabilitation

STATE OF MARYLAND
MARYLAND STATE POLICE

(410 641-3101)
Barrack "V" Eastern Region
9758 Ocean Gateway
Berlin, Maryland 21811
March 31, 2003
Montgomery County Detention Center
Attn: Detainer Records
1307 Seven Locks Road
Rockville, MD 21054
Fax No. 240-777-9740

Please file a detainer against the subject named below, who is now confined to your institution, and notify this office prior to his release, in order that we may re-arrest him on a complaint.

NAME: CATLETT, Irvin Hannis, Jr.
DOB: 01/10/47
OUR FILE NUMBER: Bk "V" 3-7984
WANTED BY: Maryland State Police Bk. "V" Berlin
OUT TELEPHONE NUMBER: (410) 641-3101 CHARGE(S): Arrest Warrant – Theft - $300 Plus
(District Court Case No. 001100032768)

We hold a warrant issued by the Court in the above-mentioned jurisdiction, a photocopy of which is attached and would appreciate your cooperation.

Sincerely,

_____/S/ Douglas A. Dods_____
Douglas A. Dods Lieutenant
Commanding – Bk
"V", Berlin

Cc: State's Attorney for Worcester
County Criminal Investigation Division
{ } State's Attorney Will Extradite

To: William Smith, Warden

From: Irvin Hannis Catlett, Jr. 0208148

Date: May 16th, 2003

Re: I.A.D.

Request for Certificate of Inmate Status

Pursuant to the Interstate/Intrastate agreement of Detainer Act, Section One, Article III and 18 USCA, Please complete in triplicate and attach one each of Certificate of Inmate Status to my completed request for disposition on Intra/Inter State Detainers, and forward to: Maryland State's Attorney
Worcester County
Snow Hill, MD 21863
Chief Judge of the District Court
For Worcester Count
Snow Hill, MD 21863
Return to writer for mailing. Failure to immediately comply with foregoing may result in civil or criminal violation of federal law. Govern yourself accordingly.

3/16/03

/S/ Irvin Hannis Catlett, Jr.
Irvin Hannis Catlett, Jr.
NCCF # 02 08148
22880 Whelan Lane
Boyds, MD 20841

Inmates Copy

Chief Judge of Worcester
County District Circuit Court

Failure to list the name and address of counsel will be construed to indicate the inmates consent to the appointment of Counsel by the appropriate court.

Inmate Initial A or B:

X A. My Counsel is: Irvin Hannis Catlett, Jr. Pro Se
Whose address is:
Montgomery County Maryland
Correction Facility
Boyds, Maryland

B. I request the court to appoint
N/A

REQUEST FOR DISPOSITION ON INTRA/INTER STATE DETAINERS

To: Joel J. Todd STATE'S ATTORNEY, Worcester County, Maryland District Court, Worcester County, Maryland

And to all other prosecuting officers and courts of jurisdiction listed below from which indictments, warrants, information, or complaints are pending.

You are hereby notified that the undersigned is now imprisoned in:

Montgomery County Correctional Facility at Boyds, Maryland

And I hereby request that a final disposition be made of the following indictments, warrants, information's or complaints now pending against me:

CASE NUMBER00110003276823-K-03-000090

DATE DETAINER PLACED 03/31/03

Criminal Summons Served on or about 12/29/03

DETAINER PLACED BY: Maryland State Police on March 31st, 2003.

STATED CHARGES: Theft over $300 Theft by check and Uttering

Failure to take action will result in the invalidation of the indictments, information, warrants, or complaints.

I, hereby agree that this request will operate as a request for final disposition of all untried indictments, warrants, information or complaints on the basis of which detainers have been lodged against me. I also agree that this request shall constitute consent by me to the production of my body in any court where my presence may be required and a further consent to be returned to the institution in which I am now confined.

If jurisdiction over this matter is properly in another agency, court or offices, please designate the proper agency, court or offices and return this form to sender.

The Certificate of Inmate Status is attached.

The inmate must indicate below whether he has counsel or wishes the court to appoint counsel for purpose of any proceeding preliminary to trial.

CERTIFICATE OF INMATE STATUS

MONTGOMERY COUNTY
MARYLAND CORRECTIONAL
FACILITY INSTITUTION

Name: Irvin Hannis Catlett, Jr. Number: 0208148
Offense(s) Charged in Detainer: Theft over $300
Offense(s) Charged in Criminal Summons:Theft by check uttering

In Accordance with Article 27, Section 6165, Subsection A (Interstate Detainers) of the Annotated code of Maryland, the following is submitted:

The Warden of the _____
Hereby certifies:
Term of Commitment of the above inmate_____
Time already served on sentence _____
Time remaining to be served on sentence _____

Amount of good time credited_____

Parole eligibility _____

Parole Board Hearings and results _____

UNREPORTED
IN THE COURT OF SPECIAL
APPEALS
OF MARYLAND

No. 2883

September Term, 2004

IRVIN HANNIS CATLET, JR.

V.

STATE OF MARYLAND

Adkins,
Barbera,
Woodward

JJ.

Opinion by Woodward, J.

Filed: June 7, 2006

Appellant, Irvin Hannis Catlett, Jr., pro se, appeals from an order dated December 7th, 2004 wherein the Circuit Court for Worcester County denied a pretrial motion to dismiss the statement of charges against him. Appellant argues that the circuit court erred in refusing to dismiss the charge of theft over $300 against him based on (1) the State's alleged violation of his Sixth Amendment right to a speedy trial, and (2) the State's alleged violation of the Interstate Agreement on Detainers Act ("IAD"), codified at Maryland Code (1999), sections 8-402 to 8-411 of the Correctional Services Article. [1]

PROCEDURAL HISTORY

The procedural history of this case began when an application for statement of charges for theft over $300 was filed on March 4, 2003 in the District Court for Worcester County. Appellant was not served with the charging document until August 6, 2004. On September 2, 2004, appellant field a written request for a trial by jury, and the case was transferred from district court to circuit court. The record indicates that appellant's first appearance in circuit court was on October 20, 2004. On October 28, 2004, appellant field a motion to continue the trial date of

December 7, 2004. By order dated December 2, 2004, the trial court granted appellant's motion to continue the trial. A new trial date was set for February 9, 2005. On November 23, 2004, appellant field a "Motion to Dismiss for Sixth Amendment Violation of (appellant's) Right to a To (sic) Speedy Trial."[2] A hearing on appellant's motion to dismiss was held on December 7, 2004, at which time the motion was denied by the trial court on the record. On January 5, 2005, appellant field the instant appeal.

On January 21, 2005, appellant filed a motion to stay the proceedings in circuit court pending the outcome of this appeal. By order dated February 9, 2005, the trial court granted appellant's motion.

DISCUSSION

Preliminary Issues

We note preliminarily that in his initial brief, appellant raises legal arguments that were never raised before the trial court, and thus are advanced for the first time before this Court. They are allegation of a violation of the Fifth Amendment prohibition against double jeopardy and violation of the equal protection clause of the Fourteenth Amendment. Simply stated, we will not consider appellant's newly raised legal arguments because

they were never raised before the circuit court. See Md. Rule 8-131 (a); Douglas v. First Sec. Fed. Sav. Bank, Inc., 101 Md App. 170, 177 (1994) (explaining that it is not the function of an appellate court to consider facts and/or arguments not considered by the trial court in reaching its decision). [3]

Appellant also contends that the State violated the Fourth Amendment by denying his request for a preliminary hearing, and violated the Eighth Amendment by imposing "wrongful and excessive bail" and by lodging and "erroneous detainer impacting Appellant's Virginia Incarceration and Parole." However, appellant did not offer in his brief any argument or cite to any legal authority supporting his position on these alleged constitutional violations. [4]

Under Maryland Rule 8-504 (a)(5), a party must present "(a)rgument in support of the party's position," and it is appellant's primary obligation to pinpoint the errors raised on appeal and to support all contentions with well-reasoned legal arguments. See Beck v. Mangels, 100 Md. App. 144, 149 (1994). As we stated in Beck:

(T)he…'provisions [of Rule 8-504 (a)(5)] are mandatory and, therefore, it is necessary for the appellant to present and

argue all points of appeal in his initial brief...(O)ur function is not to scour the record for error once a party notes an appeal and files a brief.' In prior cases where a party initially raised an issue but then failed to provide supporting argument, this court has declined to consider the merits of the question so presented but not argued.'

Id. (Citations omitted). Because we are unable to discern any reason why we should depart from this holding now, we shall give these issues no further consideration.

Motion to Dismiss

Relying on Stewart v. State, 282 Md. 557 (1978), the State argues that in a criminal proceeding when a trial court denies a pre-trial motion to dismiss that alleges a violation of the Sixth Amendment right to a speedy trial, the order denying the motion to dismiss is "not a final order and [is] not subject to appeal before trial." The State further contends that to the extent that the trial court's ruling denying appellant's motion to dismiss implicated the IAD, this Court should find that the ruling was also an interlocutory order. The State argues that appeals involving the IAD have been

resolved only after the defendant was convicted and sentence imposed.

The appellant responds in his reply brief by stating that the holding in Stewart was based only on the Sixth Amendment right to a speedy trial, and that his motion to dismiss included not only a Sixth Amendment violation, but the "Fourth, Fifth and Eighth Amendment violations and posturing those guarantees afforded under the Fourteenth Amendment." Additionally, appellant has taken the position that certain orders that grant or deny an absolute constitutional right are immediately appeal able.

For reasons previously stated, we shall not address appellant's claims of Fourth, Fifth, Eighth, and Fourteenth Amendment violations, because these issues are not properly before us. Therefore, we conclude that the only grounds for appellate review of appellant's claim of error in the trial court's denial of his motion to dismiss are the State's alleged violations of his Sixth Amendment right to a speedy trial and his right to a trial within 180 days under the IAD.

Legal Analysis

Appeals generally may only be taken from a final judgment of the trial court. See Md. Code (1973, 2002 Repl. Vol., 2004 Cum. Supp.), 12-301, of the Cts &

Jud. Proc. Art. Section 12-301 provides, inter alia, with exceptions not here relevant, that:

A party may appeal from a final judgment entered in a civil or criminal case by a circuit court. The right of appeal exists from a final judgment entered by a court in the exercise of original, special, limited, statutory jurisdiction, unless in a particular case the right of appeal is expressly denied by law. In a criminal case, the defendant may appeal even though imposition or execution of sentence has been suspended…….

In a criminal case, a final judgment consists of a verdict and either the pronouncement of sentence or the suspension of its imposition. See Lewis v. State, 289 Md. 1, 4 (1980). Thus an appeal from a pretrial order ordinarily will not be heard where they are pending proceedings in which issues on the merits of the case remain undecided. "Such orders are interlocutory, not final, and non appeal able until after entry of a final judgment." Sigma Reproductive Health Ctr. V. State, 297 Md. 660, 666 (1983). In the case sub judice, the challenged order is clearly not "final" considering that the criminal prosecution against

appellant is still pending in the Circuit Court of Worcester County.

Nevertheless, as the Court of Appeals has recognized, there are "a narrow class of orders, referred to as collateral orders, which are offshoots of the principal litigation in which they are issued and which are immediately appeal able as 'final judgments' without regard to the posture of the case." Montgomery County v. Stevens, 337 Md. 471, 477 (1995) (citation omitted) That doctrine, used sparingly, "treats as final and appeal able a limited class of orders which do not terminate the litigation in the trial court." Pub. Serv. Comm'n v. Patuxent Valley Conservation League, 300 Md. 200, 206 (1984).

In Stewart, 282 Md at 571-72, the Court of Appeals held that unlike a pretrial order of a circuit court denying a defendant's motion to dismiss on double jeopardy grounds, a defendant in a criminal proceeding may not, before trial, appeal a circuit court's order denying a motion to dismiss because of an alleged violation of a Sixth Amendment right to a speedy trial.

In reaching this holding, the Steward Court stated: "The [U.S. Supreme} Court in criminal cases has twice departed from the general prohibition against piecemeal

appellate review, and in each instance relied on the final judgment rule's 'collateral exception [.]'" Id. at 561. Specifically, in Stack v. Boyle, 342 U.S. 1 12 (1951), the Court determined that an order denying a motion to reduce bail could be reviewed before trial. See 282 Md. at 561. Later on, in Abney v. U.S. 431 U.S. 651 (1977), the Court held that there may be an interlocutory appeal of an order denying a pretrial motion to dismiss an indictment on double jeopardy grounds. See 282 Md. at 561.

In Bunting v. State, 312 Md. 472 (1988), appellant moved to dismiss the State's charges based on an alleged violation of the IAD. See id. at 475. The trial court denied appellant's motion, and an appeal followed. The State moved to dismiss the appeal on grounds that it was not from a final judgment. Appellant countered that the collateral order doctrine authorized the appeal. This Court dismissed the appeal, and the Court of Appeals granted certiorari. See id. at 476

The Court of Appeals held that a denial of a motion to dismiss based on an alleged violation of the IAD is not a final order appeal able under the collateral order doctrine. In so holding, the Court concluded:

In sum, the idea that an issue is not effectively reviewable after the termination of the trial because it involves a 'right' to avoid the trial itself, should be limited to double jeopardy claims and a very few other extraordinary situations. Otherwise, as previously indicated, there would be a proliferation of appeals under the collateral order doctrine. This would be flatly inconsistent with the long-established and sound public policy against piecemeal appeals.
Id. at 481-82

Conclusion

Because the only basis for appellant's claim of error in the denial of his motion to dismiss are alleged violations of his Sixth Amendment right to a speedy trial and his right to a trial within 180 days under the IAD, we conclude that the appeal in the instant case is from a nonappealable interlocutory order. Thus appellant must wait until after trial and imposition of sentence (if convicted) to appeal an adverse ruling on the issue presented in this appeal. We shall grant the State's motion and dismiss the appeal in the instant case.

APPEAL DISMISSED; APPELLANT TO PAY COSTS.

IN THE CIRCUIT COURT FOR WORCESTER COUNTY, MARYLAND

STATE OF MARYLAND
PLAINTIFF

V. CASE NO. 23K-04-000819

IRVIN HANNIS CATLETT, JR.
DEFENDANT

NOTICE OF APPEAL

Please note that the Defendant, Irvin Hannis Catlett, Jr., in the above captioned action hereby notes an Appeal to the Court of Special Appeals of Maryland with regard to this Court's denial of Defendant's Motion to Dismiss for Sixth Amendment Violation of Defendant's Right To A Speedy Trial. "An immediate Appeal will lie, prior to a trial on the merits of the case, from a refusal to grant a motion asserting a denial of the Constitutional Right to a Speedy Trial." Raimondi v. State 8 Md. App. 468 id. at 472

Entered in this action on December 7, 2004, at Docket Entry Line 68-69.

Respectfully submitted,

/S/ Irvin Hannis Catlett, Jr.
Irvin Hannis Catlett, Jr.
4521 Dresden Street
Kensington, MD 20895
301-564-6422

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of January, 2005, a copy of the foregoing Notice of Appeal was mailed first-class, postage prepaid to: State's Attorney's Office at One West Market Street, Court House Suite 208, Snow Hill, Maryland 21863-1076 and J. Joseph Curran, Jr., Attorney General at 200 St. Paul Place, Baltimore, Maryland 21202.

/S/ Irvin Hannis Catlett, Jr.

WORCESTER COUNTY
CIRCUIT COURT DOCKET ENTRY

23-K-04-000819 Date: 02/25/05 Time: 14:44
Docket 68-69

Num/Seq	Description	Filed
Entered	Party Jdg	
		Ruling

Criminal Open Court Proceedings 02/19/03
02/20/03 000 TCG

Judge Thomas C. Groton, III on the bench. David R. Dawson Reporting. Defendant present without Counsel for Motions Hearing. Court advised Defendant re: right to Counsel.
Defendant waives right to Counsel.
Motions Hearing Held.
Documents filed. Court denies motion to dismiss for violation of interstate detainer act. Court denies motion to dismiss for lack of 180-day (speedy trial) rule (Hicks). Court denies motion to dismiss for violation of 6th Amendment right. Court denies motion to dismiss. Motion for Subpoena for Tangible Evidence is not ripe for consideration.

Court advised Defendant again re: right to Counsel.

IN THE CIRCUIT COURT FOR
WORCESTER COUNTY MARYLAND

State of Maryland	*	
Plaintiff	*	
	*	Case No. 23K03-000090JC
V.	*	
	*	
Irvin Hannis Catlett, Jr.	*	
Defendant	*	

MOTION TO DISMISS FOR SIXTH AMENDMENT VIOLATION OF DEFENDANT'S RIGHT TO A SPEEDY TRIAL

COMES NOW the Defendant Irvin Hannis Catlett, Jr., in Proper Person, and moves this Honorable Court, pursuant to the Sixth and Eighth Amendments as guaranteed by the Fourteenth Amendment and the Maryland Rules of Procedure to

Dismiss this Action with prejudice for the Denial of his right to a Speedy Trial.

1. On December 20, 2002, Defendant was arrested for this instant case at the Montgomery County Detention Center in Rockville, Maryland. This event started the speedy trial clock. Quoting Epps v. State of Maryland 276 MD 96 Id at 102, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial..." US Const. Amendment VI. Article 21, Maryland Declaration of Rights provides "that in all criminal prosecutions every man hath a right to a speedy trial by an impartial jury." Upon the intervention of an arrest or formal charge, the Sixth Amendment speedy trial right is invoked. (See Baker v. Wingo, 407 US 514)

2. On January 2, 2003, Defendant filed a Motion to Dismiss, (A Defacto Request for Preliminary Hearing) incorporated by reference and attached within, arguing that this Action as a matter of law should be tried in the Civil Courts.
3. On January 9, 2003, Defendant was brought via Writ from Montgomery County for a Preliminary Appearance in the Worcester County District Court, at which time Defendant tried to argue Motion to Dismiss and expected at least, a Gerstein Hearing (See Gerstein v. Pugh 420 US 103). In a denial of Defendant's Fourth Amendment rights, no preliminary hearing occurred and the Defendant was returned to the Montgomery County Detention Center.

4. The Defendant was incarcerated at the Montgomery County Detention Center pursuant to an extradition proceeding from November 27, 2002, until May 20, 2003.
5. On January 23, 2003 this Action was forwarded from the District Court to this Court.
6. On January 29, 2003, the Clerk of Worcester County Circuit Court mailed a Notice of Trial to the still incarcerated Defendant's old address. The Worcester County States Attorney and the Clerk's Office knew or should have known that Defendant's address was MCDC, Rockville, Maryland.
7. On February 19, 2003, this Court issued a Bench Warrant for Failing to Appear. It was the responsibility of this Court to issue a Writ to bring Incarcerated Defendant to Trial, this in denial of Defendant's Sixth Amendment Right to A Speedy Trial. Defendant was incarcerated

8. In State and failed to appear because of that incarceration and his failure to appear was not willful, voluntary nor a result of neglect or inaction on his part. See Stone v. State 144 MD 97 Id at 100. This bench warrant will trigger several Eighth Amendment violations in July 2004. That issue will be raised later in this motion.
9. On March 31, unaware of the Action depicted in Paragraph 7, Defendant was served a detainer at the Montgomery County Detention Center at the request of the Maryland State Police, Berlin, Maryland, with the approval of the State's Attorney charging theft over $300. At time of service Defendant asked for disposition of that charge.
10. Approving the Action in Paragraph 8, Worcester County State's Attorney failed to notify this Court of Defendant's address on March 31, 2003, and on April 15, 2003, this Court called this matter again

11. And continued the Bench Warrant instead of issuing a Writ to bring Defendant to Worcester County.
12. On May 16, 2003, Defendant, without the knowledge of the aforementioned judicial process depicted in Paragraphs 6, 7 and 9 via institutional mail forwarded to the Warden of Montgomery County Correctional Facility, a request for disposition of all outstanding charges.
13. On May 20, 2003, Defendant was illegally extradited to Virginia (See Tickle v. Symmens, 270 F 2d 848 (4th CIR 1950) prior to the exhausting of his State and Federal remedies, depicting June 13, 2003, mandate. This State foreclosed prematurely on Defendant's appeal rights to the Maryland Court of Appeals and the Federal District Court, 151 days after the December 20, 2002, arrest that began this action. The Defendant should have been tried within 120 days pursuant

To Intrastate Agreement on Detainers Art 1 et Seq Article IV.

14. After being transported to the Arlington County Virginia Detention Center on May 20, 2003, Defendant was again served with the detainer discussed I Paragraph 8 by the Arlington County Sheriff Department. Defendant made Sheriff aware of the IAD.
15. On June 12, 2003, Defendant was transferred to Peumansend Creek Regional Jail in Bowling Green, Virginia, and remained there until January 29, 2004. During those seven months, the Warden of that institution failed to inform Defendant of any existing detainers.
16. On February 4, 2004, Worcester County lodged a detainer attached against the Defendant with the Virginia DOC charging Failure to Appear based on the February 19, 2003, mistaken Action of this Court. This Detainer was lodged 411 days after his arrest.

17. As a direct result of the February 19, 2003, Bench Warrant for Failure to Appear, Defendant spent 9 days in isolation at the Culpeper County Virginia Jail upon being arrested as a fugitive despite immediately waiving extradition resulting in cruel and unusual punishment as that arrest would not have occurred without this Court's Action issuing the aforementioned unlawful Bench Warrant.
18. Upon returning to Maryland, Defendant was not brought to this Court upon its first convening as ordered on the face of the wrongly issued Bench Warrant, but Defendant remained incarcerated for another twenty days until posting of bail.

WHEREFORE, Defendant's Fourth, Sixth and Eighth Amendments as guaranteed by the Fourteenth Amendment have been violated. The Fourth by failure of this Court to address Defendant's January 8, 2003 Motion to Dismiss

Together with the State's Attorney compromising his Gerstein Hearing. The Sixth Amendment was violated for constraining Defendant from attending his own Arraignment in this Court by failure to issue a Writ to Montgomery County to product Defendant at his Hearing and then failing to try the Defendant within 120 days violating his right to a Speedy Trial and it was cruel and unusual punishment and abuse of process in violation of the Defendant's Fourth, Sixth and Eighth Amendments for:

a) The Clerk's Office to mail the January 29, 2003 Summons/Notice of Trial to the Defendant's old address, with the knowledge that the Defendant had appeared in restraints on a Writ in Worchester District Court less than three days prior. The Circuit Court knew or should have known that the Defendant's address for service of process was the Montgomery County Detention Center.

b) Without proper service, this Court, on February 19, 2003, issued a Bench Warrant for Failure to Appear and revoked incarcerated Pro Se Defendant's personal recognizance.

c) This Court, in an effort when conducting an April 15, 2003, Arraignment and Discovery Hearing in this matter, failed to issue a Writ to command Montgomery County Maryland to bring incarcerated Pro Se Defendant to Court to conduct his defense.

d) Presently trying the Defendant more than 626 days after his arrest.

THEREFORE, based on the foregoing and Defendant's Memorandum in Support of that Motion, the Defendant prays that this Honorable Court dismiss the case with prejudice for violation of Defendant's Sixth Amendment right to a Speedy Trial.

November 1, 2004 Respectfully submitted,

/S/ Irvin Hannis Catlett, Jr.
Irvin Hannis Catlett, Jr.
4521 Dresden Street
Kensington, MD 20895
301-564-6422

CERTIFICATE OF SERVICE

A copy of the foregoing has been express mailed to the Worcester County Maryland State's Attorney on November 2, 2004.

/S/ Irvin Hannis Catlett, Jr.

Supreme Court, U.S.
FILED
MAY 10 2007
OFFICE OF THE CLERK

(3)

No.06-1211
In The
Supreme Court of the United States

IRVIN HANNIS CATLETT, JR.,
Petitioner,
v.
STATE OF MARYLAND
Respondent.

Petition for Writ of Certiorari
To The Court of Appeals
Of Maryland

PETITION FOR REHEARING

Irvin Hannis Catlett, Jr
12830 Travilah Road
Potomac, Maryland,20854
240-529-4989 Pro Se

QUESTIONS PRESENTED

Whether Worcester County, Maryland Circuit Court Judge Thomas Groton III erred by dismissing petitioners Motion to Dismiss for violations of the Interstate Detainer Act, Speedy Trial Rights, Fifth, Sixth, Eighth and Fourteenth Amendments and do these violations trigger immediate appeal under the Cohen Abney Standard relying on the final judgement rules Collateral Order Exception outweighs the State's right against review before judgment and or whether the removal of the Petitioner from the State of Maryland to Virginia prior to trying Petitioner on the underlying Maryland charges violated the Interstate Agreement of Detainer, the Sixth, Eighth and Fourteenth Amendments; and whether Judge Groton should have recused himself from that ruling as the majority of the asserted constitutional violations were directed at Judge Groton; and whether the Maryland Court of Special Appeals and the Maryland Court of Appeals erred by failing to reverse Judge Groton's order to dismiss Petitioner's Motion to Dismiss?

2. Does the Interstate Agreement on Detainers prevail when it conflicts with State law?

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GROUNDS FOR REHEARING 3

THIS COURT IN ORDER TO ATTAIN THE ENDS OF JUSTICE PURSUANT TO THE FOURTEENTH AMENDMENT SHOULD REVISIT THE COURTS AND THE STATES ACTION IN CONCERT IN THEIR DIRECT VIOLATION OF THE INTERSTATE AGREEMENT ON DETAINERS IN PREJUDICE TO THE PETITIONER .

CONCLUSION 4

CERTIFICATION OF COUNSEL 5

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APPENDIX A 6a
Decison of the Supreme Court on the Petition for Writ of Certiorari

APPENDIX B 6b
Petitioners request for Disposition on Inter/Intra State Detainers

APPENDIX C 6c
December 7 , 2004 Hearing transcript pages 8, 9, & 10

APPENDIX D 6d
Maryland Correctional Services Article, 8-502 Request by Inmate for final disposition .

ABLE OF AUTHORITIES CITED
IXTH AMENDENMENT
OURTEENTH AMENDENDENT

IARYLAND CORRECTIONAL SERVICES ARTICLE, 8-502.

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR REHEARING.

Petitioner respectfully prays that a rehearing for the Petition for a Writ of Certiorari issue to review the Judgment below.
w

OPINIONS BELOW

The decision of the Supreme Court of the United States appears as Appendix A To the Petition.

GROUNDS FOR REHEARING

The Petitioner prays that the Court will rehear this case on the merits of intervening circumstances of a substantial effect not previously presented. The circumstances in question involves the failure of Judge Groton to recuse himself from the motion to dismiss that was directed at his unconstiutional actions against the petitioner.

Judge Groton blantanty dissregarded the directive of the Interstate Agreement on Detainers (Appendix D) to dismiss all charges against defendant for failure of the State to bring the defendant to trial within 120 days from thedate the IAD was filed (Appendix A)

The petitioner was detained and not brought to trial within 120 days, see hearing transcript (Appendix C)

At the very least, the Judge should have recused himself from the December 7, 2004, motion to dismiss, withdrawn the bench warrant and reduced the bail to its original personal recognizance status.

The Sixth Amendment demands a fair and speedy trail by an impartial jury, certainly the Petitioner should have been afforded the same impaartiality by the Judge.

The Fourteenth Amendment guarantees due process and equal protection under the law but where is the due process when Judge Groton failed to correct the glaring mistakes.

Based on the foregoing, the Petitioner could not have prevailed with his Motion to Dismiss, due to the bias Judge, Dismissal would have demanded censure of the Judge, and in efffect became a whitewashing of same.

Conclusion

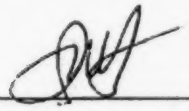
The court should grant this petition and have an evidentiary hearing concerning the bias acts of Judge Groton and his willfull disregard of the law.

Respectfully submitted,

Irvin Hannis Catlett , Jr.
12830 Travillah Road
Potomac Maryland 20854

CERTIFICATE OF COUNSEL

I, Irvin Hannis Catlett, Jr., here known as the Petitioner , hereby declare that this Petition for Rehearing before the Supreme Court of the United States is presented in good faith and not for delay.

Signed 

Dated 05/10/07

APPENDIX A

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

April 16, 2007

Mr. Irvin Hannis Catlett, Jr.
12830 Travilah Road
Potomac, MD 20854

Re: Irvin Hannis Catlett, Jr.
V.. Maryland
No. 06-1211

Dear Mr. Catlett:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,
S/William K. Suter
William K. Suter, Clerk

Correctional Services Article, § 8-502. Request by inmate for final disposition.

(a) *Application of section.* — This section applies whenever the Division of Correction, the Patuxent Institution, or any local correctional facility receives notice of an untried indictment, information, warrant, or complaint against an inmate who:

(1) in the case of the Division of Correction, is serving a sentence in a correctional facility in the Division of Correction;

(2) in the case of the Patuxent Institution, is confined at the Patuxent Institution; or

(3) in the case of a local correctional facility, is serving a sentence in the local correctional facility.

(b) *Requirement for trial within specified time.* — An inmate shall be brought to trial within 120 days after the inmate has delivered a written request for a final disposition of the indictment, information, warrant, or complaint to:

(1) the State's Attorney of the county in which the indictment, information, warrant, or complaint is pending; and

(2) the appropriate court.

(c) *Statement of authorities having custody of inmate.* — The request for final disposition required under subsection (b) of this section shall be accompanied by a statement from the managing official having immediate supervision over the inmate setting forth:

(1) the inmate's term of confinement;

(2) the time already served;

(3) the time remaining to be served;

(4) the amount of diminution credits awarded for good conduct;

(5) the date of parole eligibility for the inmate; and

(6) the most recent decision of the Maryland Parole Commission or the Board of Review of the Patuxent Institution relating to the inmate.

(d) *Authority of court to grant a continuance.* — For good cause shown in open court, with the inmate or the inmate's counsel present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(1999 Repl. Vol.)

over 180 days actually in the other jurisdiction. Then after --

THE COURT: Let me ask you this. In order to avail yourself of the 180 days, you have to serve notification on the State's Attorney's office and the Court as to your place of incarceration and as to your request for a speedy disposition.

THE DEFENDANT: That's correct.

THE COURT: The file reveals that you served the State's Attorney's office but not the Court.

THE DEFENDANT: Actually, Your Honor, the Chief Judge of the District Court was the, in Exhibit 3 in both my motions --

THE COURT: Well, what may be an exhibit is not -- there is nothing in the file to indicate that you filed it in this file.

THE DEFENDANT: I understand.

THE COURT: And that's a fatal flaw. If you don't -- and I've got the case here somewhere if need be, but there is a case that is almost on point. The facts in that case were that the Defendant served the notice on the Court but not the State's Attorney's office.

THE DEFENDANT: Yes, sir, I am aware of that case.

APPENDIX C

BEST AVAILABLE COPY

THE COURT: And that was a fatal flaw, so the ruling was that, in fact, you couldn't avail yourself, or that Defendant couldn't avail himself of the 180 days because he did not serve the notice on the State's Attorney's office.

In this case, it wasn't served on the Circuit Court.

THE DEFENDANT: Your Honor, I think that's the mistake of the warden because I actually sent the paperwork to the warden for his forwarding to the various and sundry, the two departments.

My letter, my letter of request for certificate of inmate status to W.L. Smith, the warden at Montgomery County Detention Center, said pursuant to Interstate, or Intrastate, because this was an intrastate at this point, Detainer Act, Section 1, Article III, and 18 U.S.C.A., please complete in triplicate and attach one each of the certificate of inmate status, to be completed my request for disposition of inter or intrastate detainers.

THE COURT: Well, I don't know what his procedures are. I don't know what his obligations are. The only thing I can tell you, the fact remains it wasn't filed with the Court. So, for that reason, I will deny your motion to dismiss for violation of

Interstate Detainer Act. Now, if you want to get the violation of the Hicks Rule, the 180 days that is set forth in Maryland's Code, I'll hear you as to that violation.

THE DEFENDANT: Okay. As you are well aware now that I was found, I was brought here on a writ on January 7th or 8th.

THE COURT: Well, you understand the Hicks Rule comes into play, the time, the 180 days starts to run from your first appearance in court, the Defendant's first appearance in court, or an entry of appearance by an attorney. Do you understand that?

THE DEFENDANT: I was under the understanding it was my first appearance within the case, which --

THE COURT: Now, it's your first appearance in court.

THE DEFENDANT: I was -- my first appearance in court was the District Court of Maryland --

THE COURT: No, sir.

THE DEFENDANT: -- on January 8th.

THE COURT: It's your appearance in Circuit Court, is the 180 days for these cases.

THE DEFENDANT: Can you --

THE COURT: Your first appearance in 0819

over 180 days actually in the other jurisdiction. Then after --

THE COURT: Let me ask you this. In order to avail yourself of the 180 days, you have to serve notification on the State's Attorney's office and the Court as to your place of incarceration and as to your request for a speedy disposition.

THE DEFENDANT: That's correct.

THE COURT: The file reveals that you served the State's Attorney's office but not the Court.

THE DEFENDANT: Actually, Your Honor, the Chief Judge of the District Court was the, in Exhibit 3 in both my motions --

THE COURT: Well, what may be an exhibit is not -- there is nothing in the file to indicate that you filed it in this file.

THE DEFENDANT: I understand.

THE COURT: And that's a fatal flaw. If you don't -- and I've got the case here somewhere if need be, but there is a case that is almost on point. The facts in that case were that the Defendant served the notice on the Court but not the State's Attorney's office.

THE DEFENDANT: Yes, sir, I am aware of that case.

To: William Smith, Warden

From: Irvin Hannis Catlett, Jr. 0208148

Date: May 16th, 2003

Re: I.A.D.

Request for Certificate of Inmate Status

Pursuant to the Interstate/Intrastate agreement of Detainer Act, Section One, Article III and 18 USCA, Please complete in triplicate and attach one each of Certificate of Inmate Status to my completed request for disposition on Intra/Inter State Detainers, and forward to: Maryland State's Attorney
Worcester County
Snow Hill, MD 21863
Chief Judge of the District Court
For Worcester Count
Snow Hill, MD 21863
Return to writer for mailing. Failure to immediately comply with foregoing may result in civil or criminal violation of federal law. Govern yourself accordingly.

APPENDIX D

3/16/03

/S/ Irvin Hannis Catlett, Jr.
Irvin Hannis Catlett, Jr.
NCCF # 02 08148
22880 Whelan Lane
Boyds, MD 20841

Inmates Copy

Chief Judge of Worcester
County District Court

Filed 04 NOV 23 AM 9:28

REQUEST FOR DISPOSITION ON
INTRA/INTER STATE DETAINERS

To: Joel J. Todd STATE'S ATTORNEY, Worcester County, Maryland District Court, Worcester County, Maryland

And to all other prosecuting officers and courts of jurisdiction listed below from which indictments, warrants, information, or complaints are pending.

You are hereby notified that the undersigned is now imprisoned in:

Montgomery County Correctional Facility at Boyds, Maryland

And I hereby request that a final disposition be made of the following indictments, warrants, information's or complaints now pending against me:

CASE NUMBER00110003276823K03-000090

DATE DETAINER PLACED 03/31/03

Criminal Summons Served on or about 12/29/03

DETAINER PLACED BY: Maryland State Police

STATED CHARGES: Theft over $300 Theft by check and Uttering

Failure to take action will result in the invalidation of the indictments, information, warrants, or complaints.

I, hereby agree that this request will operate as a request-for final disposition of all untried indictments, warrants, information or complaints on the basis of which detainers have been lodged against me. I also agree that this request shall constitute consent by me to the production of my body in any court where my presence may be required and a further consent to be returned to the institution in which I am now confined.

If jurisdiction over this matter is properly in another agency, court or offices, please designate the proper agency, court or offices and return this form to sender.

The Certificate of Inmate Status is attached.

The inmate must indicate below whether he has counsel or wishes the court to appoint counsel for purpose of any proceeding preliminary to trial.

failure to list the name and address of counsel will be construed to indicate the inmates consent to the appointment of counsel by the appropriate court.

Inmate Initial A or B:

X A.My Counsel is: Irvin Hannis Catlett, Jr. Pro Se
Whose address is:

_____

B. I request the court to appoint

_____

FILED 04 NOV 23 AM 9:28